IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Bail Appl..No. 7632 of 2007

CRIME NO.948/2007 of ADOOR POLICE STATION

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PETITIONER/ACCUSED:

BABU A.S., S/O. SKARIA, AGED 32 YEARS,
ARAPPIL HOUSE, ERUMAMUNDA POST,
CHUNGATHARA VIA., NILAMBUR TALUK, MALAPPURAM.

BY ADV. SRI.PREMCHAND R.NAIR

RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ADOOR POLICE STATION, REPRESENTED THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7632 of 2007

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Dated this the 12th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 498A I.P.C. That crime was registered on the basis of a private complaint filed before the learned Magistrate and referred to the police by the learned Magistrate under Section 156(3) Cr.P.C.

2. The marriage took place on 29.11.2003. No children are born in the marriage. As per an ex parte decree granted in favour of the petitioner herein, the marriage stands dissolved by order dt. 19.9.2006. This complaint has been filed long later on 5.11.2007. It is further pointed out that an application for restitution of conjugal rights filed by the defacto complainant was dismissed by the Family Court on the ground that the marriage stood dissolved as per order dt. 19.9.2006. That petition for restitution of conjugal rights was dismissed on 27.9.2007 and this complaint is filed only on 5.11.2007.

3. The learned counsel for the petitioner prays, the learned Prosecutor does not oppose the the said prayer and I am satisfied that anticipatory bail can be granted to the petitioner, subject to appropriate terms and conditions.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 19.12.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 213.12.2007 and 22.12.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and

subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 19.12.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 19.12.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 19.12.2007.

(R. BASANT)
Judge

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